

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF OKLAHOMA**

**LAVERN BERRYHILL,**

Plaintiff,

v.

**ELISABETH A. SHUMAKER,**

Defendants,

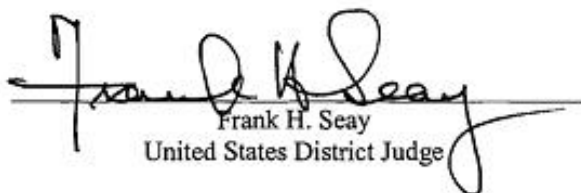
**No. CIV 10-204-FHS-SPS**

**OPINION AND ORDER**  
**DENYING LEAVE TO PROCEED IN FORMA PAUPERIS**

Plaintiff Lavern Berryhill, an inmate in custody of the Oklahoma Department of Corrections who is incarcerated at Oklahoma State Penitentiary in McAlester, Oklahoma, has filed this civil rights complaint pursuant to 42 U.S.C. § 1983. He alleges the Clerk of the Tenth Circuit Court of Appeals violated his constitutional rights by ignoring his pleadings and sending him a threatening letter concerning his motion to proceed without prepayment of fees. Plaintiff claims the defendant's actions have denied him due process and equal protection and have prolonged his detention in involuntary servitude.

The defendant is a citizen of Denver, Colorado, and the incidents of which plaintiff complains occurred in Denver, which is located in the territorial jurisdiction of the United States District Court for the District of Colorado. Because proper venue does not lie in this district, *see* 28 U.S.C. § 1391(b), plaintiff's complaint is dismissed without prejudice pursuant to 28 U.S.C. § 1406(a).

Dated this 19<sup>th</sup> day of July, 2010.

  
Frank H. Seay  
United States District Judge